

Germany (*Mecklenburg-Schwerin*)

COMMERCE AND NAVIGATION

Declaration of accession to treaty of June 10, 1846, between the United States and Hanover, signed and exchanged at Schwerin December 9, 1847.

Senate advice and consent to ratification May 18, 1848

Ratified by the President of the United States May 20, 1848

Ratification delivered June 27, 1848, and acknowledged June 29, 1848

Entered into force June 29, 1848

Proclaimed by the President of the United States August 2, 1848

Obsolete

9 Stat. 910; Treaty Series 199 ¹

DECLARATION

Whereas a treaty of commerce and navigation between the United States of America and His Majesty the King of Hanover was concluded at Hanover on the tenth day of June One thousand eight-hundred and forty-six,² by the Plenipotentiaries of the contracting Parties, and was subsequently duly ratified on the part of both Governments;

And Whereas by the terms of the twelfth Article of the same the United States agree to extend all the advantages and privileges contained in the stipulations of the said treaty, to one or more of the other States of the Germanic confederation which may wish to accede to them by means of an official exchange of declarations, provided, that such State or States shall confer similar favors upon the United States to those conferred by the Kingdom of Hanover, and observe and be subject to the same conditions, stipulations and obligations;

And whereas the Government of His Royal Highness the Grand-Duke of Mecklenburg-Schwerin has signified its desire to accede to the said treaty and

¹ For a detailed study of this declaration, see 5 Miller 179.

² TS 154, *ante*, p. 27.

to all the stipulations and provisions therein contained, as far as the same are or may be applicable to the two countries, and to become a party thereto and has expressed its readiness to confer similar favours upon the United States as an equivalent in all respects to those conferred by the Kingdom of Hanover;

And Whereas the Government of the Grand-Duchy of Mecklenburg-Schwerin in its anxiety to avoid the possibility of a misconception hereafter of the nature and extent of the favours differing essentially from those of Hanover, which it consents to bestow upon the United States, as well as for its own faithful observance of all the provisions of the said treaty, wishes the stipulations, conditions and obligations, imposed upon it, as also those which rest upon the United States, as explicitly stated, word for word in the English and German languages as contained in the following Articles:

ARTICLE 1

The High Contracting Parties agree, that whatever kind of produce, manufacture or merchandise of any foreign country can be, from time to time lawfully imported into the United States in their own vessels, may also be imported in the vessels of the Grand Duchy of Mecklenburg-Schwerin, and no higher or other duties upon the tonnage or cargo of the vessel shall be levied or collected whether the importation be made in a vessel of the United States or in a vessel of Mecklenburg-Schwerin.

And in like manner whatever kind of produce, manufacture or merchandise of any foreign country can be, from time to time lawfully imported into the Grand-Duchy of Mecklenburg-Schwerin in its own vessels may also be imported in vessels of the United States; and no higher or other duties upon the tonnage or cargo of the vessel shall be levied or collected, whether the importation be made in vessels of the one party or the other.

Whatever may be lawfully exported or re-exported by one part in its own vessels to any foreign country, may in like manner be exported or reexported in the vessels of the other. And the same duties, bounties and drawbacks shall be collected and allowed, whether such exportation or re-exportation be made in vessels of the one party or the other.

Nor shall higher or other charges of any kind be imposed in the ports of one party on vessels of the other, than are or shall be payable in the same ports by national vessels.

ARTICLE 2

The preceding article is not applicable to the coasting trade and navigation of the High Contracting Parties, which are respectively reserved by each exclusively to its own subjects or citizens.

ARTICLE 3

No priority or preference shall be given by either of the Contracting Parties, nor by any company, corporation or agent acting on their behalf, or under

their authority in the purchase of any article of commerce lawfully imported, on account of or in reference to the national character of the vessel, whether it be of the one Party or of the other, in which such article was imported.

ARTICLE 4

The ancient and barbarous right to wrecks of the sea shall remain entirely abolished with respect to the property belonging to the subjects or citizens of the High Contracting Parties.

When any vessel of either Party shall be wrecked, stranded or otherwise damaged on the coasts, or within the dominions of the other, their respective citizens or subjects shall receive, as well for themselves as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the accident happens.

They shall be liable to pay the same charges and dues of salvage as the said inhabitants would be liable to pay in a like case.

If the operations of repair shall require that the whole, or any part of the cargo be unloaded, they shall pay no duties of custom, charges or fees, on the part which they shall reload and carry away, except such as are payable in the like case, by national vessels.

It is nevertheless understood, that if, whilst the vessel is under repair, the cargo shall be unladen, and kept in a place of deposit destined to receive goods, the duties on which have not been paid, the cargo shall be liable to the charges and fees lawfully due to the keepers of such warehouse.

ARTICLE 5

The privileges secured by the present treaty to the respective vessels of the High Contracting Parties shall only extend to such as are built within their respective territories, or lawfully condemned as prizes of war, or adjudged to be forfeited for a breach of the municipal laws of either of the High Contracting Parties and belonging wholly to their subjects or citizens. It is further stipulated, that vessels of the Grand-Duchy of Mecklenburg-Schwerin may select their crews from any of the states of the Germanic Confederation, provided that the master of each be a subject of the Grand-Duchy of Mecklenburg-Schwerin.

ARTICLE 6

No higher or other duties shall be imposed on the importation into the United States of any articles, the growth, produce or manufacture of the Grand-Duchy of Mecklenburg-Schwerin, or of its fisheries, and no higher or other duties shall be imposed on the importation into the Grand-Duchy of Mecklenburg-Schwerin of any articles, the growth, produce and manufacture of the United States and of their fisheries, than are or shall be payable on the like articles being the growth, produce or manufacture of any other foreign country or of its fisheries.

No higher or other duties and charges shall be imposed in the United States on the exportation of any articles to the Grand-Duchy of Mecklenburg-Schwerin, or in Mecklenburg-Schwerin on the exportation of any articles to the United States, than such as are or shall be payable on the exportation of the like articles to any other foreign country.

No prohibition shall be imposed on the importation or exportation of any articles, the growth, produce or manufacture of the Grand-Duchy of Mecklenburg-Schwerin or of its fisheries or of the United States or their fisheries from or to the ports of said Grand-Duchy, or of the said United States, which shall not equally extend to all other powers and states.

ARTICLE 7

The High Contracting Parties engage mutually not to grant any particular favour to other nations in respect of navigation and duties of customs, which shall not immediately become common to the Other Party, who shall enjoy the same freely, if the concession was freely made, or on allowing a compensation as near as possible, if the concession was conditional.

ARTICLE 8

In order to augment by all the means at its bestowal the commercial relations between the United States and Germany the Grand-Duchy of Mecklenburg-Schwerin agrees—subject to the reservation in Article eleventh, to abolish the import-duty on raw cotton and Paddy, or rice in the husk, the produce of the United States; to levy no higher import-duty upon leaves, stems or strips of tobacco, imported in hogsheads or casks, than One Thaler and two Schillings for one hundred pounds Hamburg weight (equal to seventy Cents United States currency and weight), to lay no higher import-Duty upon rice imported in tierces or half tierces than twenty-five schillings for one hundred pounds Hamburg weight (equal to thirty-seven and a half Cents United States currency and weight), to lay no higher Duty upon whale-oil, imported in Casks or Barrels, than twelve and a half Schillings per hundred pounds Hamburg weight (equal to eighteen and three quarters Cents United States currency and weight).

The Grand-Duchy of Mecklenburg-Schwerin further agrees to levy no higher Transit-duty on the aforementioned articles in their movement on the Berlin-Hamburg rail-road, than two Schillings per hundred pounds Hamburg weight (equal to three Cents United States currency and weight) and to levy no Transit-Duty on the above mentioned articles when conveyed through the ports of the country.

It is understood however, that nothing herein contained shall prohibit the levying of a duty sufficient for control, which in no instance shall exceed on the two articles imported duty-free or those on transit one schilling per hundred Pounds Hamburg weight (equal to One Cent and a half United States Currency and Weight).

ARTICLE 9

The High Contracting Parties grant to Each other the liberty of having, Each in the ports of the other, Consuls, vice-consuls, commercial-agents, and vice-commercial-agents of their own appointment who shall enjoy the same privileges and powers as those of the most favoured nations; but if any of the said Consuls, shall carry on trade, they shall be subjected to the same laws and usages to which private individuals of their nation are subjected in the same place.

The Consuls, vice-consuls, commercial and vice-commercial-agents shall have the right, as such, to sit as judges and arbitrators in such differences as may arise between the masters and crews of the vessel belonging to the nation, whose interests are committed to their charge, without the interference of the local authorities, unless the conduct of the crews or of the Captain should disturb the order or tranquillity of the country; or the said consuls, vice-consuls, commercial-agents or vice-commercial-agents should require their assistance, to cause their decisions to be carried into effect or supported.

It is however understood, that this species of judgment or arbitration, shall not deprive the contending parties of the right they have to resort on their return, to the judicial authority of their own country.

The said Consuls, vice-consuls, commercial-agents and vice-commercial-agents are authorized to require the assistance of the local authorities for the search, arrest and imprisonment of the deserters from the ships of war and merchant vessels of their country. For this purpose they shall apply to the competent tribunals, judges and officers, and shall, in writing, demand said deserters, proving by the exhibition of the registers of the vessels, the muster-rolls of the crews, or by any other official documents, that such individuals formed part of the crews, and on this claim being thus substantiated, the surrender shall not be refused.

Such deserters, when arrested, shall be placed at the disposal of the said Consuls, vice-consuls, commercial-agents or vice-commercial-agents and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be sent to the vessels to which they belong, or to others of the same country. But if not sent back within three months from the day of their arrest, they shall be set at liberty and shall not be again arrested for the same cause. However if the deserter shall be found to have committed any crime or offence, his surrender may be delayed until the tribunal, before which his case shall be pending, shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE 10

The subjects and citizens of the High Contracting Parties shall be permitted to sojourn and reside in all parts whatsoever of the said territories in

order to attend to their affairs, and also to hire and occupy houses and warehouses for the purpose of their commerce, provided they submit to the laws, as well general as special, relative to the right of residing and trading.

Whilst they conform to the laws and regulations in force; they shall be at liberty to manage themselves their own business in all the territories subject to the jurisdiction of Each Party, as well in respect to the consignment and sale of their goods, by wholesale or retail, as with respect to the loading, unloading and sending off their ships, or to employ such agents and brokers as they may deem proper, they being, in all these cases to be treated as the citizens or subjects of the country in which they reside, it being nevertheless understood, that they shall remain subject to the said laws and regulations also in respect to sales by wholesale or retail.

They shall have free access to the tribunals of justice in their litigious affairs on the same terms which are granted by the law and usage of country to native citizens or subjects, for which purpose they may employ in defence of their rights, such advocates, attorneys and other agents as they may judge proper.

The citizens or subjects of Each Party shall have power to dispose of their personal property within the jurisdiction of the other, by sale, donation, testament or otherwise.

Their personal representatives being citizens or subjects of the other Contracting Party shall succeed to their said personal property, whether by testament or ab intestato. They may take possession thereof, either by themselves, or by others, acting for them, at their will, and dispose of the same, paying such duty only as the inhabitants of the country wherein the said personal property is situated shall be subject to pay in like cases. In case of the absence of the personal representatives, the same care shall be taken of the said property as would be taken of a property of a native in like case, until the lawful owner may take measures for receiving it.

If any question should arise among several claimants to which of them the said property belongs, the same shall be finally decided, by the laws and judges of the Country, wherein it is situated.

Where, on the decease of any person, holding real estate within the territories of one Party such real estate, would, by the laws of the land descend on a citizen or subject of the other were he not disqualified by alienage, such citizen or subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all duties of detraction on the part of the Government of the respective States.

The capitals and effects which the citizens or subjects of the respective Parties, in changing their residence shall be desirous of removing from the place of their domicil shall likewise be exempt from all duties of detraction or emigration on the part of their respective Governments.

ARTICLE 11

The present Treaty shall continue in force until the tenth of June One thousand eight hundred and fifty-eight, and further until the end of twelve months after the Government of Mecklenburg-Schwerin on the one part, or that of the United States on the other part, shall have given notice of its intention of terminating the same, but upon the condition hereby expressly stipulated and agreed, that, if the Grand-Duchy of Mecklenburg-Schwerin shall deem it expedient or find it compulsory during the said term, to levy a duty on paddy or rice in the husk, or augment the duties upon leaves, strips or stems of tobacco, on whale-oil and rice, mentioned in Article VIII. (eighth) of the present treaty the Government of Mecklenburg-Schwerin shall give notice of one year to the Government of the United States before proceeding to do so; and at the expiration of that year or any time subsequently the Government of the United States shall have full power and right to abrogate the present treaty by giving a previous notice of six months to the Government of Mecklenburg-Schwerin or to continue it (at its option) in full force until the operation thereof shall have been arrested in the manner first specified in the present Article.

Now therefore the Undersigned L. de Lutzow, President of the privy Council and first Minister of His Royal Highness, on the part of Mecklenburg-Schwerin and A. Dudley Mann, special Agent on the part of the United States, invested with full powers to this effect, found in good and due form, have this day signed in triplicate, and have exchanged this declaration. The effect of this agreement is hereby declared to be to establish the aforesaid treaty between the High Parties to this declaration, as fully and perfectly, to all intents and purposes, as if all the provisions therein contained, in the manner as they are above explicitly stated, had been agreed to in a separate treaty, concluded and ratified between them in the ordinary form.

In witness whereof the above named plenipotentiaries have hereto affixed their names and seals.

Done at Schwerin, this 9th (ninth) day of December 1847.

A. DUDLEY MANN [SEAL]

L OF LUTZOW [SEAL]